

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

JAMES KARIM MUHAMMAD,

Plaintiff,

vs.

JEREMY HAMMAN, et al.,

Defendants.

Case No: C 10-1449 SBA

**ORDER DENYING PLAINTIFF'S  
MOTION FOR APPOINTMENT OF  
COUNSEL**

Dkt. 65

Plaintiff brings the instant *pro se* action pursuant to 42 U.S.C. § 1983. Plaintiff requests the appointment of counsel to represent him in this action.

There is no constitutional right to counsel in a civil case unless an indigent litigant may lose his physical liberty if he loses the litigation. See Lassiter v. Dep't of Soc. Servs., 452 U.S. 18, 25 (1981); Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997) (no constitutional right to counsel in § 1983 action), withdrawn in part on other grounds on reh'g en banc, 154 F.3d 952 (9th Cir. 1998) (en banc). The court may ask counsel to represent an indigent litigant under 28 U.S.C. § 1915 only in "exceptional circumstances," the determination of which requires an evaluation of both (1) the likelihood of success on the merits, and (2) the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. See id. at 1525; Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986). Both of these factors must be viewed together before reaching a decision on a request for counsel under § 1915. See id.

1       The Court is unable to assess at this time whether exceptional circumstances exist which  
2 would warrant seeking volunteer counsel to accept a pro bono appointment. The proceedings  
3 are at an early stage and it is premature for the Court to determine Plaintiff's likelihood of  
4 success on the merits. Moreover, based on the numerous submissions of Plaintiff, there is no  
5 indication that Plaintiff is unable to articulate the basis of his claims in view of the lack of  
6 complexity involved. See Agyeman v. Corrs. Corp. of Am., 390 F.3d 1101, 1103 (9th Cir.  
7 2004). Accordingly, the request for appointment of counsel at this time is DENIED. The  
8 Court will consider appointment of counsel later in the proceedings, after the Court has a better  
9 understanding of the procedural and substantive matters at issue. Therefore, Plaintiff may file  
10 a renewed motion for the appointment of counsel if and when Defendants file a dispositive  
11 motion directed to Plaintiff's complaint. If the Court decides that appointment of counsel is  
12 warranted at that time, it will seek volunteer counsel to agree to represent Plaintiff pro bono.

13       This Order terminates Docket 65.

14       IT IS SO ORDERED.

15       Dated: April 8, 2011

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge

1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4 JAMES KARIM MUHAMMAD,  
5  
6 Plaintiff,

7 v.

8 PEOPLE OF CALIFORNIA et al,  
9 Defendant.  
10 \_\_\_\_\_/

Case Number: CV10-01449 SBA

**CERTIFICATE OF SERVICE**

11  
12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
13 Court, Northern District of California.

14 That on April 8, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said  
15 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing  
16 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle  
17 located in the Clerk's office.

18 James Karim Muhammad  
19 P.O. Box 24673  
20 Oakland, CA 94801

21 Dated: April 8, 2011

Richard W. Wieking, Clerk

22 By: LISA R CLARK, Deputy Clerk  
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